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AUG 30 2011

PCT LEGAL ADMINISTRATION

In re Application of
Liu et al.
Application No. 10/566,686
PCT No.: PCT/US04/24747
Int. Filing Date: 29 July 2004
Priority Date: 31 July 2003
Atty. Docket No.: MIT-166
For: Method And Structure Of Strain Control Of
SiGe Based Photodetectors And Modulators

DECISION

This is in response to the refund requests filed on 28 November 2007 and 16 March 2011.

BACKGROUND

This international application was filed on 29 July 2004, claimed a priority date of 31 July 2003, and designated the United States. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 January 2006. Applicants filed *inter alia* the basic national fee on 31 January 2006.

On 22 May 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

On 24 July 2006, applicants filed a response, including a declaration.

On 26 February 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed, indicating the declaration to be defective because it appeared "to be a compilation."

On 08 March 2007, applicants filed a response, including a declaration.

On 06 September 2007, a Filing Receipt and a Notice of Acceptance (Form PCT/DO/EO/916) showing a 35 U.S.C. 371(c)(1), (2) and (4) date of "03/08/2007" were mailed to applicants.

DISCUSSION

Counsel requests refund of the \$2160.00 extension of time fee charged to Deposit Account 07-1700 on 06 September 2007. Counsel argues that "the Response was timely filed within the one-month time limit" set by the Notification of Defective Response. Review of the record reveals that the response filed on 08 March 2007 was filed within the one month time

limit set therein. Accordingly, no extension of time under 37 CFR 1.136(a) was necessitated by that response. As such, it would be appropriate to grant the requested relief.

Further inspection of the declaration filed on 08 March 2007 reveals that it names "Samerkhae Jongthammanurak" and "David T. Danielson" in place of "JONGTHANMANURAK, Samerkhea" and "DANNIELSON, David, T." nominated in the published international application, and that no explanation of these discrepancies has been provided. Since the declaration filed on 08 March 2007 did not fully satisfy the requirements set by the Notification of Missing Requirements and the Notification of Defective Response, this application stands **ABANDONED** with respect to the national stage in the United States. Moreover, since the declaration as filed does not satisfy the requirements of 37 CFR 1.497(a) and (b), the Filing Receipt and Notice of Acceptance mailed on 06 September 2007 were issued prematurely, and both are hereby **VACATED**.

Counsel may wish to file a petition under 37 CFR 1.137(b), along with a submission resolving the discrepancies in the inventors' names.

DECISION

The request is **GRANTED** to the extent described herein.

The application stands **ABANDONED**.

The \$2,160.00 (fee code 1255) charged on 06 September 2007 will be refunded to Deposit Account no. 07-1700, as authorized by counsel.

Any response to this Decision must be filed within **TWO (2) MONTHS** of the mailing date of this Decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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